

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE:) BANKRUPTCY CASE
))
NATALIE R HINESLEY,) NO.: 22-02822
))
Debtor,) CHAPTER 13
))
) JUDGE: TIMOTHY A. BARNES

AMENDED OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

Now comes The Huntington National Bank successor by merger with FirstMerit Bank, NA, by and through its attorneys, McCalla Raymer Leibert Pierce, LLC, and requests that Confirmation be denied, stating as follows:

1. On March 12, 2022, the Debtor filed the instant bankruptcy petition under Chapter 13 of the Bankruptcy Code (11 U.S.C. §1301 *et seq.*)
2. The Huntington National Bank is a creditor of the Debtor with respect to a certain 2012 Ford Super Duty F-250, VIN: 1FT7W2BT7CEA23959.
3. The Huntington National Bank holds a security interest in the vehicle pursuant to a certain Retail Installment Contract that the Debtor entered into on or about May 13, 2013.
4. Pursuant to the Retail Installment Contract, the amount financed was \$52,014.72 with installment payments to begin June 12, 2013 with an eighty-four (84) month term.
5. The loan matured in 2020 and the Huntington National Bank filed Claim # 5-1 reflecting a total debt due in the amount of \$48,451.40.
6. On June 22, 2022, Debtor filed an Amended Plan that illustrates an intent to surrender the subject vehicle.

7. The Huntington National Bank has not repossessed the vehicle and is only recently learning that the vehicle may be in Boise, Idaho, set for auction.
8. This court ruled in *In re Ware*, that “[p]roperty that is not capable of physical delivery because the debtor has lost possession of it may be surrendered as a legal matter without physical delivery if the record is absent evidence of the debtor’s lack of good faith.” (Bankr. 15-03414 ND Ill. 2015) The Huntington National Bank has reports from several sources, including the co-signor on the note, that the Debtor took the vehicle to Chicago. Furthermore, the vehicle may have been subject to an auction in California, with Bronco Motors, notwithstanding the lienholder on title. These circumstances are entirely beyond the control of The Huntington National Bank and pursuant to the doctrine of *res ipsa loquitur*, the Debtor was the only party in control of the vehicle and now lacks good faith in the attempt to surrender.

WHEREFORE, The Huntington National Bank successor by merger with FirstMerit Bank, NA respectfully prays that Confirmation of the Debtor's Chapter 13 Plan be denied, and for such other and further relief as this Honorable Court deems just.

Respectfully Submitted,

/s/ Toni Townsend
Toni Townsend
McCalla Raymer Leibert Pierce,
LLC
1 N. Dearborn Suite 1200
Chicago, IL 60602
(312) 346-9088

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Hearing: July 21, 2022
Time: 10:30 a.m.

NOTICE OF FILING

To: See attached service list

PLEASE TAKE NOTICE THAT on July 13, 2022, The Huntington National Bank successor by merger with FirstMerit Bank, NA filed the attached Objection.

PROOF OF SERVICE

I, the undersigned Attorney, Certify that I served a copy of this Objection of Addresses attached by Electronic Notice through ECF or depositing the same in the United States Mail at 1 N. Dearborn Suite 1200, Chicago, IL 60602, at or before 5:00 p.m., on July 13, 2022, with proper postage prepaid.

***THESE DOCUMENTS ARE AN
ATTEMPT TO COLLECT A DEBT
AND ANY INFORMATION
OBTAINED WILL BE USED FOR
THAT PURPOSE***

/s/ Toni Townsend

Toni Townsend

McCalla Raymer Leibert
Pierce, LLC
1 N. Dearborn Suite 1200
Chicago, IL 60602

SERVICE LIST

To Trustee:
Marilyn O Marshall
224 South Michigan
Ste 800
Chicago, IL 60604

by Electronic Notice through ECF

To Debtor:
Natalie R Hinesley
4029 Oriole
Harwood Heights, IL 60706

Served via U.S. Mail

To Attorney:
Dale A. Riley
Geraci Law L.L.C.
55 East Monroe St. Suite #3400
Chicago, IL 60603

by Electronic Notice through ECF

McCalla Raymer Leibert Pierce, LLC
Attorney For: Creditor
1 N. Dearborn Suite 1200
Chicago, IL 60602
(312) 346-9088

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ORDER DENYING CONFIRMATION

THIS CAUSE COMING ON TO BE HEARD on the motion of The Huntington National Bank successor by merger with FirstMerit Bank, NA, a Creditor herein, the Court having jurisdiction over the parties and the subject matter and being duly advised in the premises, and due Notice having been given to the parties entitled thereto:

IT IS HEREBY ORDERED:

1) That confirmation is denied.

Dated: _____ Signed By: _____
Bankruptcy Judge: Timothy A. Barnes

McCalla Raymer Leibert
Pierce, LLC
1 N. Dearborn Suite 1200
Chicago, IL 60602
(312) 346-9088

File No. BK-028369-22